

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference P34789A/RTH/MCM	FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below.	
International application No. PCT/GB2004/004620	International filing date (day/month/year) 01/11/2004	(Earliest) Priority Date (day/month/year) 31/10/2003
Applicant MPATHY MEDICAL DEVICES LIMITED		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 6 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☒ **Certain claims were found unsearchable** (See Box II).

3. ☐ **Unity of invention is lacking** (see Box III).

4. With regard to the title,

☐ the text is approved as submitted by the applicant.

☒ the text has been established by this Authority to read as follows:

HERNIA PROSTHESIS

5. With regard to the abstract,

☐ the text is approved as submitted by the applicant.

☒ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the drawings,

a. the figure of the **drawings** to be published with the abstract is Figure No. 3

☐ as suggested by the applicant.

☒ as selected by this Authority, because the applicant failed to suggest a figure.

☐ as selected by this Authority, because this figure better characterizes the invention.

b. ☐ none of the figures is to be published with the abstract.

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International application No.

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Box No. IV Text of the abstract (Continuation of item 5 of the first sheet)

A prosthesis is provided for repairing or resisting the formation of bodily hernia in particular, for inguinal hernia repair or femoral hernia repair. The prosthesis comprises an inner surface (12) and an outer surface (15), the inner surface forms at least one channel that is sized to receive an anatomical structure and allow it to pass through the prosthesis without substantial compression of the anatomical structure.

INTERNATIONAL SEARCH REPORT

International Application No

PCT/GB2004/004620

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 A61F2/00

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61F H04B

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	FR 2 735 015 A (MICROVAL) 13 December 1996 (1996-12-13)	1
Y	page 4, line 19 - page 7, line 10; figures	2-10,14
X	WO 00/15141 A (C.R. BARD, INC; PAJOTIN, PHILIPPE) 23 March 2000 (2000-03-23)	1
Y	page 3, line 23 - page 6, line 13; figures	2-10,14
X	WO 97/22310 A (RANGEL GONZALEZ, NEFTALI) 26 June 1997 (1997-06-26)	1
Y	the whole document	2-10,14
X	US 5 522 896 A (PRESCOTT ET AL) 4 June 1996 (1996-06-04)	1,5,7
	column 5, line 48 - column 6, line 47; figure 5a	
	----- -/--	

☒ Further documents are listed in the continuation of box C.☒ Patent family members are listed in annex.

* Special categories of cited documents :

- *A* document defining the general state of the art which is not considered to be of particular relevance
- *E* earlier document but published on or after the international filing date
- *L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- *O* document referring to an oral disclosure, use, exhibition or other means
- *P* document published prior to the international filing date but later than the priority date claimed

- *T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- *X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- *Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- *&* document member of the same patent family

Date of the actual completion of the international search

15 February 2005

Date of mailing of the international search report

23/02/2005

Name and mailing address of the ISA

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Authorized officer

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INTERNATIONAL SEARCH REPORT

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C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	US 2002/052654 A1 (DAROIS ROGER E ET AL) 2 May 2002 (2002-05-02) the whole document -----	9,10

INTERNATIONAL SEARCH REPORT

International application No.
PCT/GB2004/004620

Box II Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☒ Claims Nos.: 11-13, 15-17
because they relate to subject matter not required to be searched by this Authority, namely:
Rule 39.1(iv) PCT - Method for treatment of the human or animal body by surgery
2. ☐ Claims Nos.:
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box III Observations where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
- ☐ No protest accompanied the payment of additional search fees.

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/GB2004/004620

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
FR 2735015	A	13-12-1996	FR 2735015 A1	13-12-1996
			WO 9641588 A1	27-12-1996
WO 0015141	A	23-03-2000	FR 2783156 A1	17-03-2000
			AU 5821999 A	03-04-2000
			CA 2343381 A1	23-03-2000
			WO 0015141 A1	23-03-2000
			US 6740122 B1	25-05-2004
WO 9722310	A	26-06-1997	WO 9722310 A2	26-06-1997
US 5522896	A	04-06-1996	US 5728157 A	17-03-1998
			US 5578086 A	26-11-1996
			AU 5154390 A	05-09-1990
			WO 9009152 A1	23-08-1990
US 2002052654	A1	02-05-2002	US 6258124 B1	10-07-2001
			AU 2881400 A	21-11-2000
			CA 2373583 A1	16-11-2000
			EP 1189551 A1	27-03-2002
			JP 2004500148 T	08-01-2004
			MX PA01011580 A	04-06-2002
			WO 0067663 A1	16-11-2000

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2004/004620

International filing date (day/month/year)
01.11.2004

Priority date (day/month/year)
31.10.2003

International Patent Classification (IPC) or both national classification and IPC
A61F2/00

Applicant
MPATHY MEDICAL DEVICES LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2004/004620

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2004/004620

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
- ☒ claims Nos. 11-13, 15-17

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):
- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☒ no international search report has been established for the whole application or for said claims Nos. 11-13, 15-17
- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
 - the written form ☐ has not been furnished
 - ☐ does not comply with the standard
 - the computer readable form ☐ has not been furnished
 - ☐ does not comply with the standard
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.
- ☐ See separate sheet for further details

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2-10, 14
	No: Claims	1
Inventive step (IS)	Yes: Claims	
	No: Claims	2-10, 14
Industrial applicability (IA)	Yes: Claims	1-10, 14
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Reference is made to the following documents:

D1: FR-A-2 735 015
D2: WO 00/15141 A
D3: WO 97/22310 A
D4: US-A-5 522 896
D5: US 2002/052654 A1

2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

The document D1 discloses (page 4, line 19-page 7, line 10 and figures) a prosthesis for repair or to resist the formation of an abdominal wall hernia (1a) comprising at least one outer surface and an inner surface wherein the inner surface forms at least one channel through which (1a), in use, an anatomical structure may pass when the prosthesis is in place in the body without substantial compression of said anatomical structure.

3. Dependent claims 2 to 10 and 14 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step, see documents D1 to D5 and the corresponding passages cited in the search report.

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The subject-matter of claims 11 to 13 and 15 to 17, relate to the use of a prosthesis to repair an abdominal hernia and to a method of treating hernia. The International searching authority is not required to establish an opinion with regard to novelty, inventive step and industrial applicability on methods for treatment of the human body by surgery (Rule 67.1(iv)).

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/GB2004/004620

Re Item VII

Certain defects in the international application

1. The independent claim is not drafted in two-part form (Rule 6.3(b) PCT).
2. The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).